REMARKS FOR AMENDMENT TO THE CLAIMS

The newly added Claim 25 find support in the specification. Examples, Application test 1 is directed to the sole use of chlorogenic acid alone, also Claims 1, 2, 9, 10, 17, and 18 read on chlorogenic acid because the term "one or more" ingredient implies that chlorogenic acid and its pharamaceutically acceptable salts can be used alone or in combination with caffeic acid and ferulic acid.

REMARKS/ARGUMENTS

The Examiner has delineated the following inventions as being patentably distinct:

Group I, Claims 1-2, drawn to a blood fluidity improving agent comprising chlorogenic adds, caffeic acid and ferulic adds;

Group II, Claims 3-4, drawn to a blood circulation promoter comprising chlorogenic acids, caffeic acids and ferulic adds;

Group III, Claims 5-6, drawn to a body-coldness improving agent comprising chlorogenic acids, caffeic adds and ferulic adds;

Group IV, Claims 7-8, drawn to a cerebrovascular disease improving agent comprising chlorogenic, caffeic adds and ferulic adds;

Group V, Claims 9-16, drawn to a use of chlorogenic adds, caffeic adds and ferulic acids for the manufacture of a blood fluidity-improving agent;

Group VI, Claims 17-18, drawn to a method of improving the blood fluidity comprising administering an effective dose consisting of chlorogenic acids and caffeic acids;

Group VII, Claims 19-20, drawn to a method of promoting blood circulation, comprising administering an effective dose consisting of chlorogenic acids and caffeic acids;

Group VIII, Claims 21-22, drawn to a method of improving the cerebrovascular disease, comprising administering an effective dose of chlorogenic acids and caffeic acids; and

Group IX, Claims 23-24, drawn to a method of improving the cerebrovascular disease, comprising administering an effective dose consisting of chlorogenic acids and caffeic acids.

The Examiner further required the election of a single disclosed species. Accordingly Applicants elect, with traverse, the invention of Group I and the species chlorogenic acid. Claims 1, 2, 9-16, 17, and 18 (Groups I, V and VI) read on the elected invention.

Restriction is only proper if the claims of the restricted groups are independent or patentably distinct and there would be a serious burden placed on the Examiner if restriction is not required (M.P.E.P. § 803). The burden of proof is on the Examiner to provide reasons and/or examples to support any conclusions that the claims of the restricted are patentably distinct.

The claims of the restricted Groups (I-IX) are integrally linked as compounds and the use thereof in treating serious conditions, and the treatment of these conditions are related to a blood fluidity improving agent. There is a technical relationship that defines the contribution which each of the Groups taken as a whole makes over the prior art. All of the claims should be examined together on the merits especially when the disclosed utility is that recited in the specification.

The Examiner asserts that Groups I-IX do not relate to a single inventive concept under PCT 13.1 and 13.2 because they lack the same corresponding technical feature.

The Examiner has not considered that the claims in each group are considered to have related inventions under 37 C.F.R. § 1.475(b) in which the inventions are considered to have unity of invention. Applicants submit that while Rule 13.1 and 13.2 are applicable, 37 C.F.R. § 1.475(b) provides in relevant part that a "national stage application containing claims to different categories of invention are considered to have unity of invention if the claims are drawn to . . . (3) a product, process and method of use of said product.

Moreover, Applicants respectfully submit that a search of all the claims would not impose a serious burden on the Office. As the Office has not shown any evidence that a

restriction requirement should now be required when the International Preliminary Examination Report did not, restriction is now believed to be improper.

Further, the MPEP at § 803 states as follows:

> "If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct and independent inventions."

For the reasons recited above, Applicants request that the restriction requirement be withdrawn.

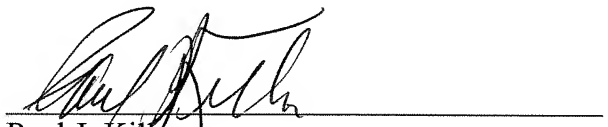
Divisional applications filed thereafter claiming the non-elected species should not be subject to a double-patenting ground of rejection, 35 U.S.C. § 121, In re Joyce (Comr. Pats. 1957) 115 USPQ 412.

Applicants further request that should the elected species be found allowable, the Examiner expand the search to include non-elected species.

Applicants submit that the above-identified application is now in condition for examination on the merits and an early notice of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon



Paul J. Killos
Registration No. 58,014

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413-2220
(OSMMN 06/04)